

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Romeo Clinkscales, #241358-1174,) C. A. No. 2:09-1795-JFA-RSC
Plaintiff,)
)
-versus-)
)
Scotty Bodiford, Administrator,) REPORT AND RECOMMENDATION
Greenville County Detention Ctr.,)
Defendant.)
)
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DISTRICT OF SOUTH CAROLINA
CHARLESTON

REPORT AND RECOMMENDATION

On July 8, 2009, the plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On July 22, 2009, the plaintiff was Ordered at that time to "keep the Clerk of Court advised in writing (**Post Office Box 835, Charleston, South Carolina 29201**) if your address changes for any reason . . . If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline . . . your case may be dismissed for violating this order." (Emphasis in original). This order was mailed to the plaintiff's last known address (Greenville County Detention Center, 20 McGee Street, Greenville, SC 29601). The envelope containing this order was returned to the court on August 3, 2009, marked "RELEASED FROM CUSTODY - Return to Sender - Attempted - Not Known - Unable to Forward". On August 14, 2009, the Staff Attorney found through the Greenville County Clerk of Court that the plaintiff was out of jail on bond, and his address was 1010 Bern Circle, Anderson, SC 29621.

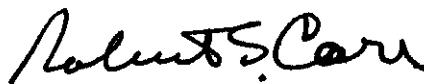
The order was re-mailed to plaintiff at this address.

On August 27, 2009, the defendant filed a Motion for Summary Judgment. On August 31, 2009, the Order (Doc. #6) was mailed to the plaintiff at 1010 Bern Circle, Anderson, SC 29621, and was returned marked "Return to Sender - Not Deliverable as Addressed - Unable to Forward". On September 1, 2009, a Roseboro Order was forwarded to the plaintiff by the court. This order was mailed to the plaintiff's last known addresses (Greenville County Detention Center, 20 McGee Street, Greenville, SC 29601 and 1010 Bern Circle, Anderson, SC 29621). On September 2, 2009, the defendant's attorney filed a Notice of Filing that the "Return of Service of Defendant's Answer to Plaintiff's Complaint in a Civil Action" and "Return of Service of Defendants' Motion for Summary Judgment and Defendants' Memorandum in Support of Motion for Summary Judgment in a Civil Action" addressed to the plaintiff at 1010 Bern Circle Anderson, SC 29621, were returned marked "RTS - Unable to Forward". The Roseboro Order envelope addressed to plaintiff at 1010 Bern Circle, Anderson, SC 29621, was returned to the court on September 10, 2009, marked "Return to Sender - Attempted - Not Known - Unable to Forward". The Roseboro Order envelope addressed to Greenville County Detention Center, 20 McGee Street, Anderson, SC 29601, was returned to the court on September 11, 2009, marked "Return to Sender - Not Deliverable As Addressed - Unable to Forward".

Based on the foregoing lack of action on the part of the plaintiff in keeping the court advised of his address, it appears

the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution and failure to advise the court of his current mailing address.

Respectfully submitted,


Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

September 15, 2009

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).